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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/512,070

10/21/2004

Michael Koch

47647

8599

1609

7590

06/28/2006

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EXAMINER

KRAMER, DEAN J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/512,070	Applicant(s) KOCH, MICHAEL	
	Examiner Dean J. Kramer	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/21/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "for example", "such as", or "especially" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Further, the use of the parenthetical phrases in lines 7 and 8 of claim 1 should be avoided in order to avoid confusion over multiple terms identifying the same axis.

There is no clear antecedent basis for "the longitudinal axis" (claim 1, line 3), "the transverse side" (claim 1, line 10), "the swivel position" (claim 1, line 11), "the latter" (claim 1, line 11), "The load suspension device" (preambles of claims 2-6), or "the edge area" (claim 2, line 2).

Also, the phrases "wherein as the fastening means (32) two fixing screws are used" (claim 2, lines 2 and 3) and "is made cuboidal" (claim 4, line 2) are not clearly understood.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 5, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (6,443,514) in view of Martin (5,775,664).

The patent to Fuller et al. shows a load handling device that substantially contains the structural limitations as set forth in the above claims except that its carrying plate has only a single penetration point (34), and its lifting means (14) swivels about a first axis but does not rotate about a second axis.

However, Martin shows a lifting device having at least two penetration points (see Figs. 5-7) and a lifting means (26) that can swivel about a first axis and rotate about a second axis that is perpendicular to the first axis.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Fuller et al. device with a wider carrying plate having at least two penetration points similar to that shown in Figures 5-7 of the Martin patent in order to more securely attach the device to the object being handled. Further, it would have been obvious to mount the lifting means (14) of Fuller et al. so that it could swivel as well as rotate as taught by Martin thereby making the resulting device more versatile and capable of assuming more positions relative to the carrying

plate. In regard to claim 3, the Fuller et al. patent discloses a covering part (56) disposed over one end of the screw head.

5. Claims 4 and 6, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. in view of Martin as applied to claim 1 above, and further in view of Tsui et al. (5,848,815).

The patent to Tsui et al. shows a hoist ring comprising a rotary device (12) fixed through a screw section (14) enabling 360-degree rotation of the loop (11). The ends of loop (11) are attached to the rotary part (12) through pins (32,33).

It would have been obvious to a person having ordinary skill in the art to attach the lifting means of the modified Fuller et al. device, as was presented above in section 4, to its rotary part through pins similar to those shown in the Tsui et al. patent in order to facilitate replacement or repair of the lifting means. It also would have been obvious to attach the rotary part of the modified Fuller et al. assembly to the carrying plate through a screw mechanism as is shown old in the Tsui et al. patent so that the carrying plate could be quickly attached or removed from the lifting means for replacement or repair thereof.

Specification

6. The abstract of the disclosure is objected to because it contains legal phraseology such as "means" and "said" which should be avoided. Correction is required. See MPEP § 608.01(b).

Drawings

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "68". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kwon shows a load lifting device attachable to the side wall of an object.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (571) 272-6926. The examiner can normally be reached on Mon., Tues., Thurs., Fri..

Art Unit: 3652

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 6/20/06
Dean J Kramer
Primary Examiner
Art Unit 3652

djk
6/20/06